

Gregg M. Galardi, Esq.
 Ian S. Fredericks, Esq.
 SKADDEN, ARPS, SLATE, MEAGHER &
 FLOM, LLP
 One Rodney Square
 PO Box 636
 Wilmington, Delaware 19899-0636
 (302) 651-3000

Douglas M. Foley (VSB No. 34364)
 Sarah B. Boehm (VSB No. 45201)
 MCGUIREWOODS LLP
 One James Center
 901 E. Cary Street
 Richmond, Virginia 23219
 (804) 775-1000

- and -

Chris L. Dickerson, Esq.
 SKADDEN, ARPS, SLATE, MEAGHER &
 FLOM, LLP
 155 North Wacker Drive
 Chicago, Illinois 60606
 (312) 407-0700

Counsel to the Debtors and
 Debtors in Possession

IN THE UNITED STATES BANKRUPTCY COURT
 FOR THE EASTERN DISTRICT OF VIRGINIA
 RICHMOND DIVISION

- - - - - x
 In re: : Chapter 11
 :
 CIRCUIT CITY STORES, INC., : Case No. 08-35653 (KRH)
 et al., :
 :
 Debtors. : Jointly Administered
 - - - - - x

**DEBTORS' SUPPLEMENTAL BRIEF IN SUPPORT OF THEIR FORTY-THIRD
 OMNIBUS OBJECTION TO THE LATE CLAIM FILED BY
THE TENNESSEE DEPARTMENT OF TREASURY-UNCLAIMED PROPERTY**

The debtors and debtors-in-possession in the above-
 captioned jointly administered cases (collectively, the
 "Debtors")¹ hereby file this supplemental brief in support of

¹ The Debtors and the last four digits of their respective taxpayer identification numbers are as follows: Circuit City Stores, Inc. (3875), Circuit City Stores West Coast, Inc. (0785), InterTAN, Inc. (0875), Ventoux International, Inc. (1838), Circuit City Purchasing Company, LLC

the Forty-Third Omnibus Objection to Certain Claims (Disallowance of Certain Late Claims) (Docket No. 5016) (the "Omnibus Objection") to the late claim filed by the Tennessee Department of Treasury, Division of Unclaimed Property (the "Late Claimant"). In further support of the Omnibus Objection, the Debtors respectfully represent as follows:

BACKGROUND

I. The Bankruptcy Cases

1. On November 10, 2008 (the "Petition Date"), the Debtors filed with the United States Bankruptcy Court for the Eastern District of Virginia, Richmond Division (the "Court"), their voluntary petitions for relief under chapter 11 of title 11 of the United State Code (the "Bankruptcy Code") commencing the above-captioned chapter 11 cases.

2. The Debtors have continued the management of Debtors' business and properties as debtors-in-possession

(5170), CC Aviation, LLC (0841), CC Distribution Company of Virginia, Inc. (2821), Circuit City Properties, LLC (3353), Kinzer Technology, LLC (2157), Abbott Advertising Agency, Inc. (4659), Patapsco Designs, Inc.(6796), Sky Venture Corp. (0311), Prahs, Inc.(n/a), XSStuff, LLC (9263), Mayland MN, LLC (6116), Courcheval, LLC (n/a), Orbyx Electronics, LLC (3360), and Circuit City Stores PR, LLC (5512). The address for Circuit City Stores West Coast, Inc. is 9250 Sheridan Boulevard, Westminster, Colorado 80031. For all other Debtors, the address was 9950 Mayland Drive, Richmond, Virginia 23233 and currently is 4951 Lake Brook Drive, Glen Allen, Virginia 23060.

pursuant to sections 1107(a) and 1108 of the Bankruptcy Code.

3. On November 12, 2008, the Office of the United States Trustee for the Eastern District of Virginia appointed a statutory committee of unsecured creditors (the "Creditors' Committee"). To date, no trustee or examiner has been appointed in these chapter 11 cases.

II. The Bar Dates for Filing Claims

A. The Bar Dates

4. On December 10, 2009, the Court entered that certain Order Pursuant to Bankruptcy Code Sections 105 and 502 and Bankruptcy Rules 2002, 3003(c)(3), and 9007 (I) Setting General Bar Date and Procedures for Filing Proofs of Claim; and (II) Approving Form and Manner of Notice Thereof (Docket No. 890) (the "Claims Bar Date Order").

5. Pursuant to the Claims Bar Date Order, the deadline for filing all "claims" (as defined in 11 U.S.C. § 105(5)) arising before November 10, 2008 against the Debtors by any non-governmental entity was 5:00 p.m. (Pacific) on January 30, 2009 (the "General Bar Date"). The deadline for governmental units to file claims that arose before November 10, 2009 is 5:00 p.m. (Pacific) on May 11, 2009 (the "Governmental Bar Date"). Pursuant to the Claims Bar Date

Order, this Court approved the form and manner of the claims bar date notice, which was attached as Exhibit A to the Claims Bar Date Order (the "Claims Bar Date Notice").

B. Service of the Claims Bar Date Notice

6. On November 12, 2008, the Court appointed Kurtzman Carson Consultants LLC ("KCC") as claims, noticing, and balloting agent for the Debtors in these chapter 11 cases pursuant to 28 U.S.C. § 156(c).

7. On December 17 and 19, 2008, KCC served a copy of the Claims Bar Date Notice on all parties who filed notices of appearance pursuant to Bankruptcy Rule 2002, all of the Debtors' scheduled creditors in these cases, the Debtors' equity holders, and certain other parties. See Affidavit of Service at Docket No. 1314, the relevant portions of which are attached hereto as Exhibit A. In addition, the Debtors published the Claims Bar Date Notice in The Wall Street Journal (Docket No. 1395) and The Richmond Times-Dispatch (Docket No. 1394).

8. The General Bar Date also was clearly identified and posted by KCC on its website at www.kccllc.net/circuitcity (the "KCC Website") under the publicly available section of the KCC Website entitled "Important Dates, Deadlines & Documents."

C. Content of the Claims Bar Date Order and Notice

9. The Claims Bar Date Order provides in relevant part:

Pursuant to Bankruptcy Rule 3003(c)(3), all "entities" and "persons" (as defined respectively in 11 U.S.C. § 101(15) and (41)), except any governmental unit (as defined in 11 U.S.C. § 101(27)) that are creditors holding or wishing to assert "claims" (as defined in 11 U.S.C. § 101(5)) arising before the Petition Date against any of the Debtors are required to file with the Debtors' Claims Agent (as defined below), on or before 5:00 p.m. (Pacific) on January 30, 2009 (the "General Bar Date") a separate, completed, and executed proof of claim form (conforming substantially to Official Bankruptcy Form No. 10) on account of any such claims in accordance with the procedures set forth below.

. . . .

Pursuant to Bankruptcy Rule 3003(c) and Bankruptcy Code section 502(b)(9), any governmental units (as defined in 11 U.S.C. § 101(27)) that are creditors holding or wishing to assert "claims" (as defined in 11 U.S.C. § 101(5)) arising before the Petition Date against any of the Debtors are required to file, on or before 5:00 p.m. (Pacific) on May 11, 2009 (the "Governmental Bar Date") a separate, completed, and executed proof of claim form (conforming substantially to Official Bankruptcy Form No. 10) on account of any such claims in accordance with the procedures set forth below.

. . . .

Any creditor that is required to file but fails to file a proof of claim for its claim in accordance with the procedures set forth in this order on or before the General Bar Date, the Governmental Bar Date, or such other date established hereby (as applicable) shall be forever barred, estopped, and

enjoined from: (a) asserting any Claim against the Debtors that (i) is in an amount that exceeds the amount, if any, that is set forth in the Schedules as undisputed, noncontingent, and unliquidated or (ii) is of a different nature or in a different classification (any such claim referred to as an "Unscheduled Claim") and (b) voting upon, or receiving distributions under, any plan or plans of reorganization in these chapter 11 cases in respect of an Unscheduled Claim; and the Debtors and their property shall be forever discharged from any and all indebtedness or liability with respect to such Unscheduled Claim.

Claims Bar Date Order, ¶¶ 2, 3, 12.

10. The Claims Bar Date Notice provides in relevant part:

CONSEQUENCES OF FAILURE TO FILE PROOF OF CLAIM

Any creditor that is required to file but fails to file a proof of claim for its Claim in accordance with the procedures set forth herein on or before the General Bar Date, the Governmental Bar Date, or such other date established hereby (as applicable) shall be forever barred, estopped, and enjoined from: (a) asserting any Claim against the Debtors that (i) is in an amount that exceeds the amount, if any, that is set forth in the Schedules as undisputed, noncontingent, and unliquidated or (ii) is of a different nature or in a different classification (any such claim referred to as an "Unscheduled Claim") and (b) voting upon, or receiving distributions under, any plan or plans of reorganization in these chapter 11 cases in respect of an Unscheduled Claim; and the Debtors and their property shall be forever discharged from any and all indebtedness or liability with respect to such Unscheduled Claim. If it is unclear from the Schedules and Statements whether your Claim is disputed, contingent or unliquidated as to amount or is otherwise properly listed and classified, you must file a proof of claim on or

before the General Bar Date. Any Entity that relies on the Schedules and Statements bears responsibility for determining that its Claim is accurately listed therein.

Claims Bar Date Notice, p. 5.

III. The Late Claim

11. On August 20, 2009, over three (3) months after the Governmental Bar Date, the Late Claimant filed proof of claim number 14567 ("Claim No. 14567") asserting a general unsecured claim against the Debtors in the amount of \$200,545.81 on account of "rebates."² A copy of Claim No. 14567 is attached hereto as Exhibit B.

12. The Late Claimant filed a response to the Omnibus Objection (Docket No. 5371) (the "Tennessee Response"). The Late Claimant asserts that its late claim should not be disallowed because it misplaced the proof of claim form partly due to the large volume of bankruptcy matters it was handling at the time. Tennessee Response, p. 10. As set forth in detail below, inadvertence and an excessive workload do not render a mistake excusable. Thus, the Late Claimant has failed to meet its burden of proving excusable neglect and its claim, therefore, should be disallowed.

² The Debtors' books and records do not reflect any amounts owed to the Late Claimant. If the Late Claimant overcame its burden of proving excusable neglect, which the Debtors submit it cannot, the Debtors reserve their right to object to Claim No. 14567 on other grounds.

PRELIMINARY STATEMENT

13. The Late Claimant's failure to timely file its claim was not due to excusable neglect and no cause exists to excuse the Late Claimant's failure to timely file its claim. Additionally, even if the Late Claimant could prove excusable neglect, which the Debtors submit is not possible under the facts alleged by the Late Claimant, the Court should, in its discretion sustain the Omnibus Objection to Claim No. 14567 because, among other reasons, any potential claim held by the Late Claimant is barred by the Bar Date Order, it would cause prejudice to the Debtors, their estates, and their creditors, potentially open the flood gates to other late claimants and drain the Debtors' and this Court's resources.

ARGUMENT

I. The Late Claimant's Claim Is Barred by the Terms of the Bar Date Order and the Omnibus Objection Should Be Sustained

14. The Late Claimant filed its claim over three (3) months after the Governmental Bar Date and, as a result, its claim is time barred and permanently enjoined under the terms of the Bar Date Order.

15. As this Court has previously found, the claims bar date in a chapter 11 bankruptcy case serves a very important purpose: "[t]he requirement of a Bar Date in Chapter 11

enables the debtor . . . to establish the universe of claims with which it must deal and the amount of those claims." In re Circuit City Stores, Inc., Case No. 08-35653 (Docket No. 6465) (Bankr. E.D. Va. Feb. 4, 2010) (hereinafter "Circuit City v. EDC") (quoting In re A.H. Robins Co., Inc., 129 B.R. 457, 459 (Bankr. E.D. Va. 1991)). Premised on the imperative purpose of finality of asserting claims against a debtor in chapter 11, courts have not allowed claims filed by creditors after the bar date, absent special circumstances. See In re Provident Hosp., Inc., 122 B.R. 683, 685 (D. Md. 1990), aff'd, 943 F.2d 49 (4th Cir. 1991) (unpublished opinion) ("Because [the claimant] did not timely file his bankruptcy claim after having been given constitutionally sufficient notice, his claim is barred under well-settled authority, 11 U.S.C. 1141(d) and Bankruptcy Rule 3003(c)(2).").

16. Due process requires that the notice of the applicable bar date be "reasonably calculated, under the circumstances, to apprise an interested party of the pendency of the action." In re Snug Enters., Inc., 169 B.R. 31, 33 (Bankr. E.D. Va. 1994). In the Debtors' cases, sufficient notice was given to the Late Claimant such that its due process rights were met. Notably, the Late Claimant

does not deny that it received notice of the Governmental Bar Date and proof of claim form.

17. The Bar Date Order explicitly provided that the Debtors were required to serve the Bar Date Notice "by first class mail on or before December 19, 2008 to all known creditors and all known holders of the Debtors' equity securities as reflected in the Debtors' books and records, as well as U.S. state escheat or unclaimed property offices." Bar Date Order, ¶ 7. Accordingly, the Debtors served the Late Claimant with the Bar Date Notice on or about December 19, 2008. See Exhibit A. Thus, the Late Claimant had actual notice of the Governmental Bar Date approximately five (5) months before the Governmental Bar Date.

18. Additionally, the Bar Date Order provided that the Debtors publish the Bar Date Notice in the Richmond Times-Dispatch and the national edition of the Wall Street Journal by December 30, 2008. See Bar Date Order, ¶ 8. Thus, the Debtors timely published the Governmental Bar Date in two newspapers. See supra at ¶ 7. The Governmental Bar Date also was posted on the publicly available KCC Website. Accordingly, the Late Claimant also had constructive notice of the Governmental Bar Date.

19. Despite actual and constructive notice of the Governmental Bar Date approximately five (5) months before the deadline, the Late Claimant failed to file its claim by the Governmental Bar Date - filing it over three (3) months late. As a result of the Late Claimant's failure to timely file a proof of claim on or before the Governmental Bar Date, the Late Claimant is "forever barred, estopped, and enjoined from . . . asserting any Claim against the Debtors . . . and the Debtors and their property shall be forever discharged from any and all indebtedness or liability with respect to such Unscheduled Claim." Bar Date Order, ¶ 12.

II. The Late Claimant Has Failed to Establish Excusable Neglect and the Omnibus Objection Should Be Sustained

20. If the request for an extension is made after the expiration of the bar date, a claimant must establish not only "cause," but also that "the failure to act was the result of excusable neglect." Fed. R. Bankr. P. 9006(b).

21. The burden of proving excusable neglect lies with the claimant seeking to file a proof of claim after a court-ordered bar date. In re Enron Corp., 419 F.3d 115 (2d Cir. 2005); see also Thompson v. E.I. DuPont de Nemours & Co., Inc., 76 F.3d 530, 534 (4th Cir. 1996) ("[T]he burden of demonstrating excusability lies with the party seeking the

extension...'"') (quoting In re O.P.M. Leasing Serv., Inc., 769 F.2d 911, 917 (2d. Cir. 1985)).

22. In Pioneer Inv. Servs. Co. v. Brunswick Ass'n Ltd. P'ship, 507 U.S. 380, 113 S. Ct. 1489 (1993), the Supreme Court established a two-part test to determine whether a claimant's failure to act in accordance with the filing deadline was due to "excusable neglect." Id. at 395, 1498. Under the Pioneer framework, a court must first determine whether the claimant's failure to file in a timely manner was the result of neglect. See id. at 394; see also Huennekens v. Marx (In re Springfield Contracting Corp.), 156 B.R. 761, 765 (Bankr. E.D. Va. 1993) (holding that the Supreme Court had established a two-part inquiry for determining whether a party's failure to act was due to "excusable neglect," the first question being whether the failure to act was due to neglect).

A. The Failure of the Late Claimant To Timely File a Claim Was Not the Result of "Neglect"

23. "The law since the Pioneer decision has been well established that where a party's actions are deliberate, the party's late filing cannot constitute excusable neglect." In re Banco Latino International, 310 B.R. 780, 785 (Bankr. S.D. Fla. 2004) (internal quotations omitted); see also In

re Celotex Corp., 232 B.R. 493, 495 (Bankr. M.D. Fla. 1999) ("After Pioneer, most courts have held that where a party's actions are deliberate, the party's late filing cannot constitute excusable neglect."); see also Agribank v. Breen, 188 B.R. 982, 989 (Bankr. C.D. Ill. 1995) ("[The Pioneer Court's] definition [of 'neglect'] virtually excludes any possibility that a late filing which is the result of a party's deliberate choice can constitute 'neglect.'").

24. To the extent that the Late Claimant asserts that Claim No. 14567 was filed late because the audit results upon which its claim is predicated were received approximately one (1) month prior to the Governmental Bar Date, which didn't give it time to file its claim, then its failure to timely file a claim would appear to be the result of deliberate inaction rather than neglect. Tennessee Response, p. 8. In fact, the bar date for filing claims for non-governmental units was one and a half months from service of the Claims Bar Date Notice, yet over ten thousand claimants managed to meet the deadline.

25. Because the Late Claimant admits to having received actual knowledge of the Governmental Bar Date, and knew the amount of the claim it intended to assert well in advance of the Governmental Bar Date, its conduct may have

been deliberate, which does not constitute neglect. See Pioneer Inv. Servs. Co., 507 U.S. at 388 (stating that neglect "encompasses both simple, faultless omissions to act and, more commonly, omissions caused by carelessness"). Accordingly, the Late Claimant should not be allowed to file its late claim.

B. Alternatively, the Late Claimant's Neglect Was Not Excusable

26. If a claimant is able to overcome the burden of proving that its failure to timely file a claim was the result of neglect, a court must then turn to the secondary inquiry of whether or not such neglect is "excusable." See id. at 395. In Pioneer, the Court held that the determination of whether the claimant's neglect is excusable is "at bottom an equitable one, taking account of all relevant circumstances surrounding the party's omission." Id. In keeping with the equitable nature of such a determination, the Supreme Court set forth four factors to be considered when contemplating a motion to allow a late-filed proof of claim under Rule 9006(b).³ Those factors include: (1) the danger of prejudice to the debtor; (2) the

³ The Late Claimant has never filed a motion to allow its late filed claim. This matter is before the Court on the Debtors' Omnibus Objection seeking the disallowance of the claim on the basis that it was filed after the Governmental Bar Date.

length of the delay and its potential impact on judicial proceedings; (3) the reason for the delay, including whether it was within the reasonable control of the claimant; and (4) whether the claimant acted in good faith. Id. at 395.

27. As this Court has stated, "[t]he 'excusable neglect' standard is not an easy one to satisfy." Circuit City v. EDC, p. 10 (quoting Thompson v. E.I. DuPont de Nemours & Co., Inc., 76 F.3d 530 (4th Cir. 1996)) ("'excusable neglect' is not easily demonstrated, nor was it intended to be."); see also In re Best Products Co., 140 B.R. 353, 359 (S.D.N.Y. 1992) (characterizing the bar date as a court-imposed statute of limitation that is "peremptory").

28. Inadvertence, ignorance of the rules, or mistakes construing the rules do not usually constitute "excusable neglect." See Thompson, 76 F.3d at 534; see also In re Best Products Co., Inc., 140 B.R. at 358 ("Except when a known creditor is not listed on the schedules and hence fails to receive notice of the filing deadline, the bar date is strictly enforced.") (citing Wright v. Placid Oil Co., 107 B.R. 104, 106 (N.D. Tex. 1989)). "Even upon a showing of 'excusable neglect,' whether to grant an enlargement of time still remains committed to the discretion of the . . . court." Thompson, 76 F.3d at 532.

1. The Late Claimant Failed to Prove an Adequate Reason for its Failure to Timely File a Claim

29. "The most important of the factors identified in Pioneer for determining whether 'neglect' is 'excusable' is the reason for the failure to file." Thompson, 76 F.3d at 534. "[T]he four Pioneer factors do not carry equal weight; the excuse given for the late filing must have the greatest import. While prejudice, length of delay, and good faith might have more relevance in a close[] [sic] case, the reason-for-delay factor will always be critical to the inquiry." In re Enron Corp., 419 F.3d 115, 122-24 (3d Cir. 2005) (quoting Graphic Commc'ns. Int'l Union v. Quebecor Printing Providence, Inc., 270 F.3d 1, 5-6 (1st Cir. 2001)); see also Pioneer Inv. Servs. Co. v. Brunswick Ass'n Ltd. P'ship, 507 U.S. at 395 (stating that it is also significant whether or not the reason for the failure to file was "within the reasonable control of the movant.").

30. As this Court has previously found, "[a]dministrative failure on the part of the claimant is generally insufficient to warrant a finding of 'excusable neglect.'" Circuit City v. EDC, p. 11 (citing Thompson, 76 F.3d at 534 ("'[A] mere concession of palpable oversight or administrative failure generally has been held to fall short

of the necessary showing...'"') (quoting In re O.P.M. Leasing Serv., Inc., 769 F.2d 911, 917 (2d Cir. 1985)); see also In re Century Brass Products, Inc., 72 B.R. 68 (Bankr. D. Conn. 1987) (holding that a delay resulting from a breakdown in creditor's internal procedures does not constitute excusable neglect within the meaning of Rule 9006(b)(2) of the Federal Rules of Bankruptcy Procedure); see also In re Figueroa, 33 B.R. 298, 303 (Bankr. S.D.N.Y. 1983) (holding that courts generally refuse to grant relief when late filing is caused by internal breakdowns because a finding that a breakdown in internal procedures caused the noncompliance shows that the events were not beyond the control of the creditor).

31. The Late Claimant admits that the filing of its proof of claim after the Governmental Bar Date was clearly within its reasonable control. Tennessee Response, p. 10.

32. Further, the Late Claimant admits that it received the Claims Bar Date Notice and proof of claim form, but alleges that the proof of claim was misplaced due to the volume of bankruptcy cases that it was involved in at that time. Tennessee Response, p. 10. "[P]reoccupation or an excessive workload does not typically render a mistake excusable." In re Enron Corp., 419 F.3d 115 (3d Cir. 2005) (citing Pioneer, 507 U.S. at 398 ("we give little weight to

the fact that counsel was experiencing upheaval in his law practice at the time of the bar date."); see also Circuit City v. EDC, p. 12.

33. Accordingly, while the Late Claimant may have had a heavy workload that contributed to the late filing of its claim, it does not excuse its neglect.

34. Further, the Late Claimant's own response shows that it is not an unwitting victim of bankruptcy procedure, but rather a regular participant in such procedures and as such should be held to the same, if not a higher standard, as the thousands of other claimants who timely filed their claims in the instant case. Tennessee Response, p. 10.

35. The Late Claimant had actual and constructive notice of the bar date for filing claims well in advance of the Governmental Bar Date and through inadvertence/a mistake that was reasonably within its control failed to timely file its claim. Its claim, therefore, should be disallowed.

2. The Debtors Will Be Prejudiced if the Late Claimant's Claim Is Allowed

36. Another factor to be considered when determining whether a party's failure to act in a timely manner was attributable to "excusable neglect" is whether the party's failure to act in a timely manner will prejudice the

opposing party. See Pioneer, 507 U.S. at 395. However, the presence or absence of prejudice to the Debtors is only one of several factors to be considered by the court in determining whether the claimant has satisfied the excusable neglect standard. See In re Keene Corp., 188 B.R. 903, 909 (S.D.N.Y. 1995) ("We . . . conclude that an approach that considers all the relevant factors, but recognizes that they all need not point in the same direction, is the correct one. Conversely, we question the wisdom of an approach under which the court must ultimately ignore the creditor's culpability and permit the filing of an [sic] late claim if prejudice is absent.").

37. The allowance of late claims could diminish the distribution projected for those claimants that filed timely proofs of claim. See In re Intelligent Med. Imaging, 262 B.R. 142, 146 (Bankr. S.D. Fla. 2001) (disallowing the late claim in a liquidating chapter 11 case because "the claim would produce substantial prejudice to the other creditors in the case, in that it would greatly reduce the distribution to unsecured creditors."). In addition, if this Court were to allow the Late Claimant's claim, it may encourage other late claimants to seek the allowance of

their claims, which could result in a substantial amount of the Court's time being devoted to considering late claims.

38. Were this Court to allow the claim of the Late Claimant, it also could wreak administrative havoc on the Debtors' claims resolution process. The amount of time and legal expense that the Debtors would have to devote to responding to late claim motions, rather than continuing to reconcile timely filed claims, also could be substantial. See In re Calpine Corp., 2007 U.S. Dist. LEXIS 86514 at *19 (S.D.N.Y. Nov. 21, 2007) (finding that "the disruption in the judicial administration of the estate can constitute prejudice, apart from any decreased distribution"); see also In re Nat'l Steel Corp., 316 B.R. 510, 520 (Bankr. N.D. Ill. 2004) (disallowing a late claim because allowing the claim would require considerable analysis and time and would severely prejudice the debtors and their ability to effectively and efficiently review and dispose of claims and make distributions under the plan). The allowance of late claims at this stage of the case also would prejudice the administration of this mature liquidating chapter 11 case.

39. Allowing the Late Claimant's claim could easily open the flood gates for additional late claimants to come forward. As one court in this district has previously

noted: "[i]f the court were to allow [the Late Claimant] to file a late claim solely because [the Late Claimant was] unaware of the bankruptcy filing, it is difficult to see on what basis the court could deny the same relief to dozens or perhaps hundreds of creditors who might now come forward." In re US Airways, Inc., 2005 Bankr. LEXIS 2696, *24-25 (E.D. Va. 2005); see also In re Dana Corp., 2007 Bankr. LEXIS 1394 at *19 (In a case dealing with a late-filed 503(b)(9) claim in a chapter 11 bankruptcy, the court held that "the floodgates argument is a viable one ... [g]ranted the requested relief ... would set an untenable precedent and would likely precipitate a flood of similar claims."); In re US Airways, Inc., 2005 Bankr. WL 3676186, *8 (E.D. Va. 2005) ("[A]llowance of claims filed many months after the passage of the bar date would frustrate the efforts of both the participants and the court.")

40. Accordingly, the Omnibus Objection should be sustained and the Late Claimant's claim should be disallowed because its allowance would prejudice the Debtors, potentially open the door to a flood of late claims, reduce the recovery to creditors who timely filed claims, and result in significant investment of time and expense on behalf of this Court, the Debtors and their professionals.

3. The Length of Delay Weighs Against the Allowance of Claim No. 14567

41. Another factor this Court must consider is the length of the delay. The length of delay in the filing of Claim No. 14567 is significant and weighs against the Late Claimant.

42. It is not uncommon for courts to deny a proof of claim filed just a few days after the bar date. See Thompson v. E.I. DuPont de Nemours & Co., Inc., 76 F.3d 530 (4th Cir. 1996) (refusing to enlarge the period for filing a notice of appeal when the litigant mailed the notice three days prior to the expiration of the deadline but the notice did not arrive until three days after the expiration of the deadline); see also In re Dishman, 257 B.R. 780 (Bankr. E.D. Va. 2000) (refusing to enlarge time for filing of complaint where complaint was filed two days late due to a delay in mail delivery caused by inclement weather); Avnet, Inc. v. Maxwell, 2006 WL 1519333 (May 25, 2006 N.D. Ill.) (refusing to accept late filing where claim was faxed to claims agent on bar date and delivered by courier to claims agent one day after the bar date); In re Yankee Distrib. Co., 53 B.R. 222 (Bankr. D. Vt. 1985) (denying motion to allow late proof of

claim where proof of claim arrived one day after the bar date).

43. The Late Claimant filed its claim approximately three (3) months after the Governmental Bar Date. As a result of the Late Claimant's substantial delay in filing its claim and its failure to overcome the significant burden of proving excusable neglect, Claim No. 14567 should be disallowed.

44. As set forth above, the Late Claimant has failed to demonstrate sufficient facts to warrant this Court's finding of excusable neglect. Further, the Late Claimant's failure to file its claim by the Governmental Bar Date may have been due to inaction, not neglect, and even if its failure to file a claim was due to neglect, such neglect is not excusable.

45. Moreover, even if the Late Claimant could prove excusable neglect, which the Debtors submit is not possible under the facts alleged by the Late Claimant, the Court should, in its discretion sustain the Omnibus Objection to Claim No. 14567 because, among other reasons, any potential claim held by the Late Claimant is barred by the Bar Date Order, it would cause prejudice to the Debtors, their estates and creditors, potentially open the flood gates to

other late claimants and drain the Debtors' and this Court's resources.

46. The Late Claimant has failed to meet its burden of proving excusable neglect and no cause exists for extending the time within which the Late Claimant may file its claim. Accordingly, the Omnibus Objection must be sustained.

CONCLUSION

WHEREFORE, for the foregoing reasons, the Debtors respectfully request that this Court sustain the Omnibus Objection, disallow Claim No. 14567, and grant the Debtors such other and further relief as it deems just and proper.

Dated: August 20, 2010
Richmond, Virginia

Gregg M. Galardi, Esq.
Ian S. Fredericks, Esq.
SKADDEN, ARPS, SLATE, MEAGHER &
FLOM, LLP
One Rodney Square
PO Box 636
Wilmington, Delaware 19899-0636
(302) 651-3000

- and -

Chris L. Dickerson, Esq.
SKADDEN, ARPS, SLATE, MEAGHER &
FLOM, LLP
155 North Wacker Drive
Chicago, Illinois 60606
(312) 407-0700

- and -

/s/ Douglas M. Foley
Douglas M. Foley (VSB No. 34364)
Sarah B. Boehm (VSB No. 45201)
MCGUIREWOODS LLP
One James Center
901 E. Cary Street
Richmond, Virginia 23219
(804) 775-1000

Counsel to the Debtors and
Debtors in Possession

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Exhibit A

**IN THE UNITED STATES BANKRUPTCY COURT
FOR THE EASTERN DISTRICT OF VIRGINIA
Richmond Division**

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In re:	:	Chapter 11
	:	
CIRCUIT CITY STORES, INC.,	:	Case No. 08-35653 (KRH)
<u>et al.</u> ,	:	
	:	
Debtors. ¹	:	Jointly Administered
	:	
	:	
-----	X	

AFFIDAVIT OF SERVICE

I, Evan Gershbein, being duly sworn according to law, depose and say that I am employed by Kurtzman Carson Consultants LLC, the Court appointed claims and noticing agent for the Debtors in the above-captioned cases.

On December 17, 2008, the appropriate number of copies of the following documents were served 1) via hand delivery to the party set forth on the service list attached hereto as **Exhibit A**, for subsequent distribution to beneficial holders of common stock, CUSIP 172737 10 8 (the "common stock"); 2) via overnight mail upon the parties set forth on **Exhibit B**, for subsequent distribution to beneficial holders of common stock; and, 3) via electronic mail upon the parties set forth on **Exhibit C**:

- 1) Notice of Deadline for Filing Proofs of Claim and Proof of Claim form (Docket No. 966)
- 2) Notice of Commencement of Chapter 11 Bankruptcy Cases, Meeting of Creditors and Fixing of Certain Dates (Docket No. 967)

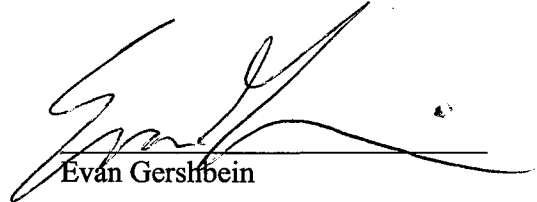
¹ The Debtors and the last four digits of their respective taxpayer identification numbers are as follows: Circuit City Stores, Inc. (3875), Circuit City Stores West Coast, Inc. (0785), InterTAN, Inc. (0875), Ventoux International, Inc. (1838), Circuit City Purchasing Company, LLC (5170), CC Aviation, LLC (0841), CC Distribution Company of Virginia, Inc. (2821), Circuit City Properties, LLC (3353), Kinzer Technology, LLC (2157), Abbott Advertising Agency, Inc. (4659), Patapsco Designs, Inc. (6796), Sky Venture Corp. (0311), Prahs, Inc. (n/a), XStuff, LLC (9263), Mayland MN, LLC (6116), Courchevel, LLC (n/a), Orbyx Electronics, LLC (3360), and Circuit City Stores PR, LLC (5512). The address for Circuit City Stores West Coast, Inc. is 9250 Sheridan Boulevard, Westminster, Colorado 80031. For all other Debtors, the address is 9950 Mayland Drive, Richmond, Virginia 23233.



On December 19, 2008, copies of the following documents were served 1) via first class mail upon the registered holders of common stock listed on Exhibit D, provided by Wells Fargo Shareowner Services, as transfer agent; and, 2) via first class mail to the parties set forth on the service list attached hereto as Exhibit E:

- 3) Notice of Deadline for Filing Proofs of Claim and Proof of Claim form (Docket No. 966)
- 4) Notice of Commencement of Chapter 11 Bankruptcy Cases, Meeting of Creditors and Fixing of Certain Dates (Docket No. 967)

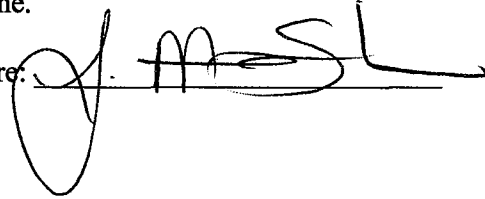
Dated: December 24, 2008



Evan Gershbein

State of California
County of Los Angeles

Subscribed and sworn to (or affirmed) before me on this 24th day of December, 2008, by Evan Gershbein, proved to me on the basis of satisfactory evidence to be the person(s) who appeared before me.

Signature: 



CreditorName	CreditorNoticeName	Address1	Address2	Address3	City	State	Zip	Country
TENHARMSEL, MATTHEW R		ADDRESS REDACTED						
TENHET, JOSHUA DAVID		4288 WARREN RD			FRANKLIN	TN	37067	
TENHET, JOSHUA DAVID		ADDRESS REDACTED						
TENHOLDER, CHASE ALLEN		ADDRESS REDACTED						
TENHOUTEN, EDWARD W		PO BOX 632	P 21327		CADILLAC	MI	49601	
TENLY, HEATHER		19903 IVORYTON PLACE			MONTGOMERY VILLAGE	MD	20886-0000	
TENLY, HEATHER SHANA		ADDRESS REDACTED						
TENMAN, SEAN		1452 ROBERTA ST			SALT LAKE CITY	UT	84115	
TENNANT CO		PO BOX 71414			CHICAGO	IL	606941414	
TENNANT CO		PO BOX 71414			CHICAGO	IL	60694-1414	
TENNANT JR, GEORGE		8911 FONDREN VILLAGE DR			HOUSTON	TX	77071-2454	
TENNANT SALES & SERVICE CO		PO BOX 1452	701 N LILAC DR		MINNEAPOLIS	MN	55440-1452	
TENNANT SALES & SERVICE CO		PO BOX 71414			CHICAGO	IL	60694-1414	
TENNANT, BRADLEY JONATHAN		ADDRESS REDACTED						
TENNANT, CHRISTY		3716 KENTLAND DR			SW ROANOKE	VA	24108	
TENNANT, CODY JACE		ADDRESS REDACTED						
TENNANT, KEIAUDA NICOLE		ADDRESS REDACTED						
TENNANT, KENNETH		5072 WINIFRED ST			WAYNE	MI	48184-2638	
TENNANT, KYLE SCOTT		ADDRESS REDACTED						
TENNANT, STEVE JACK		ADDRESS REDACTED						
TENNARO, MATTHEW M		ADDRESS REDACTED						
TENNER, CHRISTINA BANKS		ADDRESS REDACTED						
TENNER, MICHAEL GERARD		9PARKVIEW			WEST HARRSION	NY	10604	
TENNESSE VALLEY EXT CO		PO BOX 70055			NASHVILLE	TN	37207	
TENNESSE, LASHEEA		10303 HALIFAX RD			PETERSBURG	VA	23805-9754	
TENNESSEAN		PO BOX 1387			NASHVILLE	TN	372021387	
TENNESSEAN		PO BOX 24865			NASHVILLE	TN	37202-4865	
TENNESSEAN		PO BOX 24887			NASHVILLE	TN	37202	
TENNESSEAN		PO BOX 330038			NASHVILLE	TN	37203-0038	
TENNESSEAN		PO BOX 331309			NASHVILLE	TN	37203-1309	
TENNESSEAN		PO BOX 340002			NASHVILLE	TN	37203-0002	
TENNESSEE AMERICAN WATER CO		PO BOX 70824			CHARLOTTE	NC	28272	
TENNESSEE AMERICAN WATER CO		PO BOX 75146			BALTIMORE	MD	212750146	
TENNESSEE AMERICAN WATER COMPANY		PO BOX 371880			PITTSBURGH	PA	15250-7880	
TENNESSEE AUTOMATIC SPRINKLER		PO BOX 7127			KNOXVILLE	TN	37921	
TENNESSEE BOARD FOR		LICENSING CONTRACTORS	500 JAMES ROBERTSON PKY		NASHVILLE	TN	37243	
TENNESSEE CHILD SUP REC UNIT		PO BOX 305200	STE 110		NASHVILLE	TN	37229	
TENNESSEE COUNCIL OF RETAIL		530 CHURCH ST STE 702	RECEIPTING UNIT		NASHVILLE	TN	37219	
TENNESSEE DEPT OF ENVIRONMENT & CONSERVATION	401 CHURCH STREET	1ST FLOOR L & C ANNEX			NASHVILLE	TN	37243-0435	
TENNESSEE DEPT OF EMPLOYMENT		PO BOX 101			NASHVILLE	NC	372020101	
TENNESSEE DEPT OF EMPLOYMENT		PO BOX 101			NASHVILLE	NC	37202-0101	
TENNESSEE DEPT OF LABOR		710 JAMES ROBERTSON PW 3RD FL			NASHVILLE	TN	372430659	
TENNESSEE DEPT OF LABOR		DIV OF OCCUP SAFETY & HEALTH	710 JAMES ROBERTSON PW 3RD FL		NASHVILLE	TN	37243-0659	
TENNESSEE DEPT OF REVENUE		PO BOX 2026			JOHNSON CITY	TN	37605	
TENNESSEE DEPT OF REVENUE		500 DEADRICK ST	ANDREW JACKSON STATE OFFICE		NASHVILLE	TN	37242-0400	
TENNESSEE DEPT OF REVENUE		ANDREW JACKSON STATE OFFICE BLD	500 DEADERICK ST		NASHVILLE	TN	37242	
TENNESSEE DEPT OF REVENUE		ANDREW JACKSON STATE OFFICE			NASHVILLE	TN	372420400	
TENNESSEE DEPT OF REVENUE		ANDREW JACKSON STATE OFFICE	TAX ENFORCEMENT DIVISOIN		NASHVILLE	TN	37242	
TENNESSEE DEPT OF REVENUE		PO BOX 378			KNOXVILLE	TN	37901	
TENNESSEE FIRE AND SAFETY		ENVIRONMENTAL INC	P O BOX 14002		KNOXVILLE	TN	37914	
TENNESSEE FIRE AND SAFETY		P O BOX 14002			KNOXVILLE	TN	37914	
TENNESSEE LIGHTING INC		616 MAIN ST			SPRINGFIELD	TN	37172	
TENNESSEE SEC OF STATE		312 EIGHTH AVE N 6TH FL			NASHVILLE	TN	37243	
TENNESSEE SEC OF STATE		JAMES K POLK BLDG	SUITE 500		NASHVILLE	TN	37219	
TENNESSEE SEC OF STATE		SUITE 500			NASHVILLE	TN	37219	
TENNESSEE STATE ATTORNEYS GENERAL	ROBERT E COOPER JR	500 CHARLOTTE AVE			NASHVILLE	TN	37243	
TENNESSEE STATE BUSINESS TAX		PO BOX 80007			KNOXVILLE	TN	37924	
TENNESSEE STATE BUSINESS TAX		TENNESSEE STATE BUSINESS TAX	PO BOX 80007		KNOXVILLE	TN	37924	
TENNESSEE TITANS ENTERTAINMENT		BAPTIST SPORTS PARK	460 GREAT CIRCLE RD		NASHVILLE	TN	37228	
TENNESSEE TREASURY DEPARTMENT	UNCLAIMED PROPERTY DIVISION	ANDREW JACKSON BLDG 10 FL			NASHVILLE	TN	37243-0242	
TENNESSEE TREASURY DEPARTMENT		9TH FLOOR ANDREW JACKSON BLDG			NASHVILLE	TN	372430242	
TENNESSEE TREASURY DEPARTMENT		9TH FLOOR ANDREW JACKSON BLDG			NASHVILLE	TN	37243-0242	
TENNESSEE VALLEY AUTHORITY		175 OAKFIELD RD			OAKFIELD	TN	38362	
TENNESSEE WIRELESS INC		6330 BAUM DR			KNOXVILLE	TN	37919	
TENNESSEE, AMY M		770 DAMSON RD			SANDSTON	VA	23150	

CreditorName	CreditorNoticeName	Address1	Address2	Address3	City	State	Zip	Country
TENNESSEE, MICHELLE AMY		ADDRESS REDACTED						
TENNESSEE, STATE OF		10TH FL ANDREW JACKSON BLDG	TREASURY DEPT UNCLAIMED		NASHVILLE	TN	37243	
TENNESSEE, STATE OF		404 JAMES ROBERTSON PKY 16 FL	PROP		NASHVILLE	TN	37243-0657	
TENNESSEE, STATE OF		BOX 198982	DEPT OF COMMERCE &		NASHVILLE	TN	37219-8982	
TENNESSEE, STATE OF		BOX 3372	INSURANCE		NASHVILLE	TN	37219	
TENNESSEE, UNIVERSITY OF		100 DUNFORD HALL			KNOXVILLE	TN	379964010	
TENNESSEE, UNIVERSITY OF		100 DUNFORD HALL			KNOXVILLE	TN	37996-4010	
TENNESSEE, UNIVERSITY OF		1502 W CUMBERLAND AVE	329 UNIVERSITY CTR		KNOXVILLE	TN	37996-4800	
TENNESSEE, UNIVERSITY OF		5 COMMUNICATIONS BLDG			KNOXVILLE	TN	37996-0314	
TENNESSEE, UNIVERSITY OF		600 HENLEY ST	B022 UT CONFERENCE CENTER		KNOXVILLE	TN	37996-4103	
TENNESSEE, UNIVERSITY OF		615 MCCALLIE AVE	UTC PLACEMENT UNIVERSITY		CHATTANOOGA	TN	37403	
TENNESSEE, UNIVERSITY OF		708 STOKELY MANAGEMENT CTR	CTR FOR EXECUTIVE		KNOXVILLE	TN	37996-0575	
TENNEY JR, MAYFORD		ADDRESS REDACTED	EDUCATION					
TENNEY MTN APPLIANCE		220 PIERCE RD			COLUMBUS	MS	39702-3225	
TENNEY TRUSTEE, AL		PO BOX 190120			LITTLE ROCK	AR	722190120	
TENNEY TRUSTEE, AL		PO BOX 190120			LITTLE ROCK	AR	72219-0120	
TENNEY, APRIL		105 WIDGEON DR			NEWNAN	GA	30263	
TENNEY, APRIL		ADDRESS REDACTED						
TENNEY, BRADFORD G		ADDRESS REDACTED						
TENNEY, BRIAN MICHAEL		4547 RIVER RD			PERRY	OH	44081	
TENNEY, BRIAN MICHAEL		ADDRESS REDACTED						
TENNEY, CHRISTOPHER GEORGE		119 OLD CADIZ RD			FLUSHING	OH	43977	
TENNEY, DARYLL C		744 WEST SWANZEY RD	APT 206C		WEST SWANZEY	NH	03446	
TENNEY, DARYLL C		ADDRESS REDACTED						
TENNEY, MEGAN LORI		ADDRESS REDACTED						
TENNIE, VICTOR DIONDRAY		ADDRESS REDACTED						
TENNIS, JORDAN THOMAS		6140 INDIAN TRAIL RD			GURNEE	IL	60031	
TENNIS, JORDAN THOMAS		ADDRESS REDACTED						
TENNIS, ROSIE ROCHELLE		ADDRESS REDACTED						
TENNITY, SEAN THOMAS		ADDRESS REDACTED						
TENNON, GENZEL LEJON		ADDRESS REDACTED						
TENNOW, MIKE		2209 JEFFERSON WAY			ANTIOCH	CA	94509	
TENNYSON TV REPAIR		912 W QUEEN ST			TYLER	TX	75702	
TENNYSON, ANTHONY RAMON		ADDRESS REDACTED						
TENNYSON, DANNY		974 TATUM RD			MEMPHIS	TN	38122	
TENNYSON, KALI		3977 LOWRY AVE 1			CINCINNATI	OH	45529	
TENNYSON, TAVARUS E		ADDRESS REDACTED						
TENO, JOSHUA		ADDRESS REDACTED						
TENOLD II, RONNY JENE		ADDRESS REDACTED						
TENOLD WINDOW CLEANING, MARK		PO BOX 1564			HIKSON	TN	37343	
TENOLD, STEVEN H		ADDRESS REDACTED						
TENORIO, ANA REBECA		2 ELTON COURT			NORWALK	CT	06851	
TENORIO, ANA REBECA		ADDRESS REDACTED						
TENORIO, ERIC		15109 WARREN DR			GULFPORT	MS	39503-4567	
TENORIO, IDALIA		12101 FONDREN RD			HOUSTON	TX	77035-4036	
TENORIO, JUAN		3115 S EDGEFIELD			DALLAS	TX	75224-0000	
TENORIO, MICHAEL P		1100 COLLEGE VIEW DR			TURLOCK	CA	95382	
TENORIO, MICHAEL P		ADDRESS REDACTED						
TENORIO, VITO C		ADDRESS REDACTED						
TENORT, ELAINE		1742 CLEOFORD AVE			MEMPHIS	TN	38127-4365	
TENREIRO, BERNARD J		23 DAFFODIL RD			ROCKY POINT	NY	11778	
TENREIRO, BERNARD J		ADDRESS REDACTED						
TENROX INC		600 BLVD ARMAND FRAPPIER			LAVAL	QC	H7V 4B4	CAN
TENSCHER, ANITA FATIMA		939 KATE LINDE CIRCLE			STOCKTON	CA	95206	
TENTERS, CHRISTOPHER ALLEN		ADDRESS REDACTED						
TENTINO KENDALL CANNIFF KEEFE		C3 SHIPWAY PL			BOSTON	MA	02129	
TENUTA, ANTHONY		ADDRESS REDACTED						
TEO, RENFRED J		ADDRESS REDACTED						
TEODORCZYK, THOMAS JOSEPH		ADDRESS REDACTED						
TEODORESCU, ILEANA		1961 E 17TH ST			BROOKLYN	NY	11229-3464	
TEODOSIC, SANI		3409 HARRISON			AMARILLO	TX	79109	
TEODULO, F		5600 N CENTRAL EXPY NO 418			DALLAS	TX	75206-5104	
TEOH, WILLIAM		ADDRESS REDACTED						
TEP, ALLEN		3045 EMERALD DR			JONESBORO	GA	30236	
TEP, ALLEN		ADDRESS REDACTED						
TEP, PHALLA		5549 W 133RD ST			SAVAGE	MN	55378-2424	
TEPAIT, JOSHUA FEBRE		ADDRESS REDACTED						

Exhibit B

U.S. Bankruptcy Court
Eastern District of Virginia

Notice of Electronic Claims Filing

The following transaction was received from Hantel, Gina on 8/19/2009 at 3:54 PM EDT

Case Name: Circuit City Stores, Inc.
Case Number: 08-35653-KRH
TN Dept. of Treasury - Unclaimed Property
c/o TN Atty. General, Bankruptcy Div.
Creditor Name: P.O. Box 20207
Nashville, TN 37202-0207
Claim Number: 207 Claims Register
Total Amount Claimed: \$200545.81

The following document(s) are associated with this transaction:

Document description: Main Document

Original filename: H:\Bank\Legal\Cases\Out of State Cases\Other Out of State Cases\Circuit City Stores, Inc., EDVA 08-35653
KRH\CircuitCityStoresIncTNDeptofTreasury\$200545.81POC-ko.pdf

Electronic document Stamp:

[STAMP VAEBStamp ID=875559604 [Date=8/19/2009] [FileNumber=13716945-0]
[7be78d36e3cca48e5329ca060c5933d5ee00771676bd3faa4fdcc0b89113fe807fe4
d24a51dcd774dcf5f73b03ad0a786d3c59ab8fa1dea82b9c4b6f770e3cc6]]

08-35653-KRH Notice will be electronically mailed to:

Robin S. Abramowitz on behalf of Creditor Bond Circuit VIII Delaware Business Trust
abramowitz@larypc.com

Angela Sheffler Abreu on behalf of Creditor PNY Technologies, Inc.
aabreu@mccarter.com, rowan20@excite.com

Benjamin C. Ackerly on behalf of Creditor COMSYS Information Technology Services, Inc. and COMSYS Services, LLC
backerly@hunton.com, cloving@hunton.com

Christopher M. Alston on behalf of Creditor 507 Northgate LLC
alstc@foster.com, laboj@foster.com

Mark K. Ames on behalf of Creditor Commonwealth of Virginia, Department of Taxation
mames777@yahoo.com

Heather Lynn Anderson on behalf of Creditor State of New Jersey, Division of Taxation
Heather.Anderson@dol.lps.state.nj.us

Tara B. Annweiler on behalf of Creditor American National Insurance Company
tannweiler@greerherz.com

Henry P. Baer on behalf of Creditor Bell'O International Corp.
CSommer@fdh.com, csommer@fdh.com

Peter Barrett on behalf of Creditor Cole CC Groveland FL, LLC
peter.barrett@kutakrock.com, lynda.wood@kutakrock.com; sara.abrams@kutakrock.com; elenora.allen@kutakrock.com

Raymond William Battaglia on behalf of Creditor Miner Corporation
rbattaglia@obht.com

Philip C. Baxa on behalf of Creditor Dicker-Warmington Properties
phil.baxa@mercertrigiani.com, liz.camp@mercertrigiani.com

Christopher R. Belmonte on behalf of Creditor International Business Machines Corporation
cbelmonte@ssbb.com, asnow@ssbb.com, pboswick@ssbb.com

Paula S. Beran on behalf of Creditor Committee Official Committee of Unsecured Creditors
pberan@tb-lawfirm.com, dleadbeater@tb-lawfirm.com; stavenner@tb-lawfirm.com; jsnyder@tb-lawfirm.com

Jason B. Binford on behalf of Creditor BB Fonds International 1 USA, L.P.
jason.binford@haynesboone.com

Ron C. Bingham on behalf of Creditor c/o Ron C. Bingham T.D. Farrell Construction, Inc.
rbingham@stites.com, dclayton@stites.com

